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VIA FEDERAL EXPRESS

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743


Re: Petition / Request for Waiver by the Mississippi Wireless Communication
Commission
Public Safety and Homeland Security Bureau Docket No. 06-229

Dear Ms. Dortch:

On behalf of the Mississippi Wireless Communication Commission, an Agency of the State of Mississippi, please find the original and four (4) copies of a Request for Waiver, submitted for filing in PS Docket No. 06-229. Please let me know if you have any questions or need further information.

Sincerely,

BUTLER, SNOW, O'MARA, STEVENS & CANNADA, PLLC



Mark W. Garriga

Enclosures

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FCC Mail Room

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Petition by the Mississippi)	
Wireless Communication Commission,)	
An Agency of the State of Mississippi,)	
for Waiver of the Commission's Rules Regarding a)	
700 MHz Public)	PS Docket No. 06-229
Safety Interoperable Broadband Network)	
)	
)	

REQUEST FOR WAIVER

Pursuant to Section 1.925(b) of the Rules of the Federal Communications Commission (the "Commission"),¹ the Mississippi Wireless Communication Commission (alternately, "MWCC"), an agency of the State of Mississippi, respectfully requests that the Commission grant a waiver of its 700 MHz public safety early deployment rules to enable the construction and operation of a 700 MHz interoperable public safety broadband network within the State of Mississippi. This request seeks a waiver(s) from the Commission that would allow the State of Mississippi to utilize the public safety broadband spectrum licensed to the Public Safety Spectrum Trust (763-768 MHz and 793-798 MHz) and the spectrum adjacent to the public safety broadband spectrum known as the 700 MHz "D Block." The requested waiver will serve the public interest by improving communications for first responders through the deployment of broadband public safety communications in the State of Mississippi, to complement a statewide wireless system already under construction. This improved system, in turn, would have the

¹ 47 C.F.R. § 1.925(b).

capability of functioning as an integral part of the nationwide interoperable public safety broadband system envisioned by the Commission.

I. BACKGROUND

Section 25-53-171 of the Mississippi Code established the Mississippi Wireless Communication Commission, to ensure that critical personnel have effective communications services available in emergency situations. The enabling legislation specifically directs the MWCC to implement a statewide wireless communications system for state and local governments that enables interoperability between various wireless communications technologies.² The MWCC is further tasked with the responsibility for approving all wireless communication purchases within the state and for setting forth rules and regulations governing these purchases.³

The State of Mississippi regards the establishment of an interoperable public safety broadband network as a critical need for its first responders and, pending approval of the instant request for waiver, is planning for the deployment of such a network as quickly as possible in the 700 MHz public safety broadband spectrum. The proposed broadband network would be built in conjunction with the construction of the Mississippi Wireless Information Network (“MSWIN”), an ongoing project described in more detail below. The State of Mississippi is applying for American Recovery and Reinvestment Act funding in support of the broadband data addition to MSWIN.

Grant of the instant request will allow first responders in the State to quickly utilize the benefits of public safety broadband services while the Commission and other stakeholders work through the issues remaining to be resolved in the pending proceeding considering a shared

² See Miss. Code Ann. § 25-53-171(4)(a).

³ *Id.* at sect. 4(i).

commercial/public safety approach in the 700 MHz band. The MSWIN would meet both the technical specifications the Commission has proposed for the public safety system and be capable of integration into any shared commercial/public safety network (the "Shared Wireless Broadband Network") that may ultimately be established by the Commission. As they are currently written, the Commission's 700 MHz rules do not permit early deployment by the State at this time.

Through the passage of the American Recovery and Reinvestment Act of 2009, Congress made available over \$7 billion of Federal funds for broadband deployment. One of the goals of this program is to "improve access to, and use of, broadband service by public safety agencies."⁴ Grant of the requested waiver would be consistent with Congress' goal of expanding broadband services in the public safety arena.

A waiver is appropriate in the present case because: (1) the underlying purpose of the Commission's rules Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, would be frustrated by application to the instant case; and (2) the grant of this requested waiver would be in the public interest.⁵

II. THE UNDERLYING PURPOSE OF THE COMMISSION'S RULES WOULD BE FRUSTRATED UNLESS MISSISSIPPI'S WIRELESS INFORMATION NETWORK IS GRANTED A WAIVER

Despite the Commission's efforts, achievement of a 700 MHz Public/Private Partnership for interoperable public safety broadband communications throughout the United States remains a distant goal. As a result, states like Mississippi lack a clear path to achieving interoperable public safety broadband communications. Although proposed revised rules indicate the

⁴ American Recovery and Reinvestment Act, Pub. L. No. 111-5, § 6001(b)(4) (2009).

⁵ See 47 C.F.R. § 1.925(b)(3) (Commission may grant waiver under certain conditions).

Commission's willingness to press forward with some form of Public-Private Partnership,⁶ it is unclear whether a future auction of the Upper 700 MHz D Block, if held, will succeed.^{7 8}

Because Mississippi is one of the least densely populated states in the nation, commercial providers face significant economic challenges in serving the rural areas of the State. As a result, government involvement is essential to the early build out and deployment of a 700 MHz broadband public safety system to meet the critical needs of public safety users in these rural regions.

The MWCC is charged with the responsibility of promoting the efficient use of public resources to ensure that law enforcement personnel and essential public health and safety personnel have effective communications services available in emergency situations, and to ensure the rapid restoration of such communications services in the event of disruption caused by natural disaster, terrorist attack or other public emergency.⁹ Since its inception the MWCC has worked with federal, state and local authorities to establish or improve interoperability and encourage system planning of all public safety communications systems. It has also strived to ensure federal/state communications rules and regulations are followed.

The State of Mississippi is deploying the MSWIN, a public safety wireless network to support state and local police, firefighters and rescue/emergency medical service workers. Use of the 700 MHz band for broadband, because of the 700 MHz band's superior propagation

⁶ See Service Rules for the 698-746, 747-762 and 777-792 MHz Bands; Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, WT Docket No. 06-150 and PS Docket No. 06-229, Third Further Notice of Proposed Rulemaking, FCC 08-230 (rel. Sept. 25, 2008) ("Third Further Notice").

⁷ The Commission's current 700 MHz rules reserve to the Upper 700 MHz D Block licensee "the exclusive right to build and operate the Shared Wireless Broadband Network." 47 C.F.R. §§ 27.1330; *see also* 47 C.F.R. § 90.1430(a).

⁸ There are two exceptions to the general rule, which allow local public safety entities, with the approval of the Public Safety Broadband Licensee ("PSBL"), to construct broadband networks at their own expense: (1) in areas where the Upper 700 MHz D Block licensee has committed in a Network Sharing Agreement to build out a network by a certain (later) date, and (2) in areas where the Upper 700 MHz D Block licensee is not required by a Network Sharing Agreement to build out. *See* 47 C.F.R. § 27.1330(b). In addition, the Commission's rules require the early build-out must be transferred to or operated by the D Block Licensee. *Id.* at sect. (b)(1).

⁹ *See* Miss. Code Ann. § 25-53-171.

characteristics, would allow Mississippi to achieve greater interoperability and cost effectiveness, and could increase the data coverage area over which public safety entities could communicate.

The Mississippi Department of Information Technology Services (ITS), the fiscal agent for the MWCC, issued Request for Proposals (RFP) 3429 on March 2, 2006, for the acquisition of a turn-key statewide wireless voice and data capable infrastructure system. This system, when completed, will provide all system participants a public-safety grade, statewide, interoperable, seamless roaming radio system. On November 2, 2006, both the WCC and the ITS Board approved the selection of Motorola, Inc. as the lowest and best vendor responding to the RFP, at a total 15-year life cycle cost of \$220,835,956.76. ITS and the MWCC executed a contract on behalf of the State with this vendor on June 29, 2007. Through Department of Justice and Department of Homeland Security grants and Mississippi bond issues, the MWCC has secured funding to fully implement MSWIN.

Construction and deployment of the MSWIN is progressing rapidly. When completed, the system will provide mobile radio coverage to 97% of the State's land area. Motorola and the State are in the process of building approximately 135 trunked radio repeater towers. An additional 9 towers are proposed to support dispatch centers. Each tower site will be equipped with an equipment shelter, emergency power system, network equipment and redundant site controllers. In accordance with the State's requirements, the vendor has provided three radio repeater sites on wheels that can be used to restore the wide area functionality of the system infrastructure anywhere in the state when it is damaged or destroyed. The State of Mississippi plans to utilize this tower and microwave infrastructure for the implementation of Broadband data if granted the Waiver.

The MWCC began construction on the Mississippi Gulf Coast and proceeded north. Fifty-six of the 144 tower locations are complete, equipped with electronics, and will be in full operation in April 2010. Construction is underway on six sites and Site Due Diligence (leasing, zoning, permitting, FAA approval, National Environmental Protection Act (NEPA) assessment, etc.) is nearing completion on the next 18 sites in Phase 2, the central part of the state. Options to lease land have been obtained on the remaining 64 sites in upper central and North Mississippi and Due Diligence efforts have begun. The MWCC expects the statewide system to be completed around December 2011. All sites constructed or leased provide for one-hundred percent growth in antenna/dish attachments. The MWCC will utilize part of this reserve capacity to accommodate the 700 MHz Broadband data implementation.

With the expanding role of public safety in protecting life and property and guarding of homeland security, there is an ever-increasing need for public safety to have access to state-of-the-art wireless communications. Broadband access has come to play an ever greater role in the daily lives of citizens, businesses and government to the point where access to broadband applications are essential to getting things done.

Public safety does not yet have access to state-of-the-art broadband applications to support mission critical functions, in large part because the spectrum resources needed to run those applications are not readily available. Mississippi is eager to deploy a broadband network to better serve and protect Mississippians. Use of the 700 MHz band for this network would allow for expanded coverage given the enhanced reach and penetration of the 700MHz spectrum, and would maximize the beneficial impact of broadband access for our local police, fire, emergency medical services, and other critical system users, potentially to include transportation personnel, corrections personnel, emergency officials, and others.

Gaining access to the 700 MHz public safety broadband spectrum will allow Mississippi to deploy a statewide wireless broadband data network, which will expedite high-speed mobile data IP connectivity to the state's existing network, satisfying the interests of public safety responders. A broadband network will support applications that are too bandwidth intensive for existing narrowband data technologies. Certain time-intensive tasks such as database lookups and dispatch messaging could be offloaded to the broadband network, freeing up capacity on the narrowband voice systems. Officer efficiency would be enhanced by the ability to access databases as well as to access and complete forms while deployed in their respective jurisdictions, including duties performed while officers are on routine patrol, or on-scene deployments at a crime scene, fire scene, or the site of any natural or man-made disaster.

At present, the State must rely very heavily on its public safety voice radio network. Although the State of Mississippi and many local entities presently obtain service from commercial broadband wireless data network service providers, these networks generally have sufficient RF coverage to provide network connectivity to emergency responders in *only* the most populated parts of the state. In areas not served by the commercial wireless networks, on-scene responders must transmit and receive crucial information through the voice radio network. This limits the amount of information available to an Incident Commander making split-second life-or-death decisions during an emergency. Moreover, the reliability of a commercial network both during and after weather-related emergencies is uncertain since these networks may have been damaged or destroyed.

The State's 700 MHz public safety broadband network will satisfy all of the technical requirements the FCC and/or the Public Safety Spectrum Trust (holder of the Public Safety Broadband License) may adopt for the national network. The State's network will be designed

and built to be fully interoperable with the future national network and authorized users of the national network will be allowed access to Mississippi's local portion of the network. Accordingly, grant of Mississippi's waiver will further the goal of constructing a single national public safety wireless broadband network.

The MSWIN will serve as a robust platform for the Shared Wireless Broadband Network, capable of being integrated into any eventual shared network regardless of the technology chosen. This new infrastructure will enable state agencies and local entities that join to conduct voice dispatch and field operations autonomously. A broadband component would be a significant compliment to this important public safety infrastructure. Enforcement of the current rules would frustrate the underlying purpose of Commission's initiative to establish a nationwide, broadband, interoperable Public Safety Network in the 700 MHz Band.

III. THE GRANT OF THE REQUESTED WAIVER WOULD BE IN THE PUBLIC INTEREST

The deployment of a nationwide network from which local public safety entities can obtain broadband services is likely years away. The State of Mississippi is willing to commit resources to bridge this gap so that its first responders can utilize broadband technology to protect life and property immediately. Indeed, the State's commitment of over \$200 million for the construction of the MSWIN is proof positive of the State's desire and ability to serve this important public interest.

The public interest would be served in many ways, including the enhanced technological support that a broadband system in conjunction with the MSWIN can offer. For example, the Mississippi MED-COM operation, a centralized and coordinated ED/EMS communications center located at the University of Mississippi Medical Center (UMMC) in Jackson, is designed to improve communications efficiency and increase access for emergency medical responders. The MED-COM's high-tech situation room alerts hospitals to stand-down or stand-up in a mass

casualty incident, and allows emergency management personnel to communicate, through MSWIN, with public service agencies around the state. Because the center is centrally located in the state's capital city, vital information is disseminated efficiently, using various mediums to reach all emergency service providers and hospitals in real time. MSWIN broadband capability would allow this statewide wireless network to serve as a platform for enhanced video and data transmissions to/from ambulances operating around the state.


While we wait for a shared commercial/public safety network to be developed, the public interest requires that local authorities, like the MWCC, be allowed to deploy their own interoperable, broadband public safety communications networks. In these unique circumstances, waiver of the rules limiting such deployment to the Upper 700 MHz D Block licensee will clearly serve the public interest.

IV. CONCLUSION

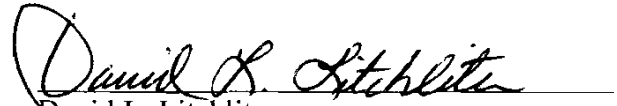
The Commission would significantly advance the cause of public safety by allowing the State of Mississippi to deploy its own public safety broadband network that could operate until a Shared Wireless Broadband Network can be established. The State stands ready to begin deployment of life-saving broadband services, and respectfully requests that the Commission promptly allow it to begin by granting the waiver as requested herein.

This the 22nd day of March, 2010.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Christopher B. Epps", written over a horizontal line.

Christopher B. Epps
Chairman
Mississippi Wireless Communication
Commission

A handwritten signature in black ink, reading "David L. Litchliter", written over a horizontal line.

David L. Litchliter
Executive Director
Mississippi Department of Information
Technology Services

Jackson 4920457v4